

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF NURSING

IN THE MATTER OF THE
LICENSE OF

SHARON M. MALZBERG, R.N.
License # 26NO07699900

TO PRACTICE NURSING IN THE
STATE OF NEW JERSEY

Administrative Action

**FINAL ORDER
OF DISCIPLINE**

This matter was opened to the New Jersey State Board of Nursing ("the Board") upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Sharon M. Malzberg ("Respondent") is a Registered Professional Nurse (RN) in the State of New Jersey, and has been a licensee at all times relevant hereto.
2. On or about March 13, 2014, a letter of inquiry issued on behalf of the Board, asking for information concerning respondent's arrest on DWI charges and for failure to submit to a breath alcohol test. Respondent was also asked for documentation of nursing continuing education completed in the last three years. The letter was sent by certified and regular mail to respondent's address of record. The certified mailing was delivered on March 22, 2014. The regular mailing was not returned.
3. Respondent faxed a reply to the letter dated April 2, 2014, which included a copy of the summons. Respondent indicated she would be forwarding documentation of continuing education and a performance evaluation "next week."

4. In a communication dated April 28, 2014, Respondent advised the Board that a court appearance had been scheduled at the end of May. In addition, Respondent supplied a performance evaluation or "observation" from the school where she was apparently employed, as well as documentation of 6.5 hours of nursing continuing education completed in 2013 and 2014.

5. On July 21, 2014, a message was left on Respondent's telephone answering machine by a staff member of the Division of Consumer Affairs, asking Respondent to supply information relating to the disposition of the arrest, as well as advising Respondent to provide documentation of continuing education. No response was received.

6. On her 2014 renewal application, Respondent indicated that she would have completed all required continuing education for the June 1, 2012 – May 31, 2014 licensing cycle by May 31, 2014.

CONCLUSIONS OF LAW

Respondent's failure to fully respond to the Board's inquiry concerning her arrest, by failing to respond to the inquiry concerning the disposition of the arrest, and also failing to provide a narrative statement concerning the underlying conduct that gave rise to the arrest, constitutes a violation of her duty to cooperate with a Board investigation in violation of N.J.A.C. 13:45C-1.2 -1.3, subjecting Respondent to sanctions pursuant to N.J.S.A. 45:1-21(e).

Respondent's failure to demonstrate timely completion of nursing continuing education requirements for the June 1, 2012 – May 31, 2014 renewal period constitutes

a violation of N.J.A.C. 13:37-5.3, subjecting Respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and (h).

Respondent's indication on her 2014 renewal application that she would complete all required continuing education for the preceding renewal period by May 31, 2014 constitutes misrepresentation in violation of N.J.S.A. 45:1-21(b).

Based on the foregoing findings and conclusions, a Provisional Order of Discipline seeking a suspension, reprimand, and seven hundred and fifty dollars (\$750) in civil penalties was entered on November 4, 2014. Copies were served upon Respondent via regular and certified mail. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the thirtieth day following entry unless Respondent requested a modification or dismissal of the stated findings of fact and conclusions of law by setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor.

Respondent replied to the Provisional Order of Discipline by providing a 60+ page response which included documentation that the DWI and related charges were dismissed on September 4, 2014 and that she had timely completed the required continuing education by taking college courses towards a Masters of Science in Nursing from Spring 2009 through Fall 2012. Respondent maintained that she had previously faxed a response to the Board's letter of inquiry and believed that her graduate degree transcript had been included. The Board, however, had not received the transcript until Respondent replied to the Provisional Order. Respondent also maintained that she had

faxed the Board office in September 2014 to notify the Board that the charges had been dismissed, but did not provide any official documentation of the dismissal or fax transmittal confirmation thereof. The Board did not receive a copy of the court disposition until Respondent replied to the Provisional Order.

The Board reviewed Respondent's submissions and determined that further proceedings were not necessary. The Board was not persuaded that the submitted materials merited further consideration. Inasmuch as Respondent provided the bulk of information originally requested and demonstrated timely completion of continuing education, the Board determined that the suspension, reprimand and two hundred and fifty (\$250) civil penalty were no longer warranted. However, the Board determined that Respondent's failure to fully respond to the original inquiry, thereby necessitating the filing of the Provisional Order of Discipline, and review of Respondent's subsequent reply months later, warrants imposition of a five hundred dollar (\$500) civil penalty.

ACCORDINGLY, IT IS on this 8 **day of** April, 2015

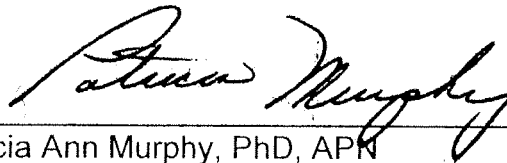
ORDERED that:

1. A five hundred dollar (\$500) civil penalty is hereby imposed for the violation of N.J.A.C. 13:45C-1.2 -1.3. Payment shall be made by certified check, bank cashier check, or money order payable to "State of New Jersey," or by wire transfer, direct deposit, or credit card payment delivered or mailed to George Hebert, Executive Director, State Board of Nursing, P.O. Box 45010, Newark, New Jersey 07101. Any other form of payment will be rejected and will be returned to the party making the payment. Payment shall be made no later than twenty-one (21) days after the date of filing of this Final Order of Discipline. In the event Respondent fails to make a timely

payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

NEW JERSEY STATE BOARD OF NURSING

By:

A handwritten signature in cursive script, appearing to read "Patricia Ann Murphy", written over a horizontal line.

Patricia Ann Murphy, PhD, APRN
Board President